

Internal Revenue Service

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Person To Contact:

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Date: February 10, 2004

A =

B =

X =

EIN:

Y =

EIN:

Z =

EIN:

Country =

Date 1 =

Dear :

This letter responds to your letter dated March 4, 2003, and subsequent correspondence, submitted on behalf of X, Y, and Z, requesting a time extension under section § 301.9100-3 of the Procedure and Administration Regulations to file an election under § 301.7701-3(c).

The information submitted states that X is a wholly owned subsidiary of A. Y is a wholly owned subsidiary of B. X and Y are entities formed under the laws of Country. Z, a subsidiary of X and Y, is also an entity formed under the laws of Country. The members of X, Y, and Z intended that each entity file a Form 8832, Entity Classification

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Election, effective on Date 1. However, X, Y, and Z each inadvertently failed to file a Form 8832.

Section 301.7701-3(b)(2) provides guidance on the classification of a foreign eligible entity for federal tax purposes. Generally, a foreign eligible entity is treated as an association taxable as a corporation if all members have limited liability, unless the entity has a single owner and makes an election to be treated as a disregarded entity pursuant to the rules in § 301.7701-3(c). If the entity has more than one owner, it may elect to be treated as a partnership pursuant to the rules in § 301.7701-3(c). Section 301.7701-3(c) provides that an entity classification election must be filed on Form 8832 and can be effective up to 75 days prior to the date the form is filed or up to 12 months after the date on which the form is filed.

Section 301.7701-3(g)(3)(iii) provides that when elections under § 301.7701-3(c)(1)(i) for a series of tiered entities are effective on the same date, the eligible entities may specify the order of elections on Form 8832.

Under § 301.9100-1(c), the Commissioner may grant a reasonable extension of time to make a regulatory election, or a statutory election (but no more than six months except in the case of a taxpayer who is abroad), under all subtitles of the Internal Revenue Code, except subtitles E, G, H, and I. Section 301.9100-1(b) defines the term “regulatory election” as including an election whose due date is prescribed by a regulation published in the Federal Register, or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin.

Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make an election. Section 301.9100-1(a).

Section 301.9100-2 provides automatic extensions of time for making certain elections. Section 301.9100-3 provides extensions of time for making elections that do not meet the requirements of § 301.9100-2.

Requests for relief under § 301.9100-3 will be granted when the taxpayer provides evidence to establish that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the Government. Section 301.9100-3(a).

Based solely on the information submitted, we conclude that X, Y, and Z have satisfied the requirements of §§ 301.9100-1 and 301.9100-3. As a result, X and Y are

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each granted an extension of 60 days from the date of this letter to make an election under § 301.7701-3(c) to be treated as disregarded entities. Z is granted an extension of 60 days from the date of this letter to make an election under § 301.7701-3(c) to be treated as a partnership. Each entity classification election should be made by filing Form 8832 with the appropriate service center. Additionally, in accordance with § 301.7701-3(g)(3)(iii), the entities may specify that the order of the elections of X, Y, and Z be deemed made in order, from the bottom subsidiary to the top subsidiary on Form 8832. A copy of this letter should be attached to each Form 8832. A copy is enclosed for that purpose.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer(s) requesting it. Section 6110(k)(3) of the Internal Revenue Code provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file with this office, a copy of this letter is being sent to X.

Sincerely,

Heather C. Maloy
Associate Chief Counsel
(Passthroughs and Special Industries)